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## **Minutes of the Commission Meeting Held on June 29, 2006 In the Stone Building 33 New York Avenue, Oak Bluffs, MA**

### **IN ATTENDANCE**

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Commissioners: (P = Present; A = Appointed; E = Elected)

- |   |                                       |
|---|---------------------------------------|
| - James Athearn (E – Edgartown)         | P Ned Orleans (A – Tisbury)           |
| P John Best (E – Tisbury)               | - Megan Ottens-Sargent (E – Aquinnah) |
| P John Breckenridge (A – Oak Bluffs)    | - Deborah Pigeon (E – Oak Bluffs)     |
| - Christina Brown (E - Edgartown)       | - Jim Powell (A – West Tisbury)       |
| P Carlene Condon (A – Edgartown)        | P Doug Sederholm (E – Chilmark)       |
| - Martin Crane (A – Governor Appointee) | P Linda Sibley (E – West Tisbury)     |
| P Mimi Davisson (E – Oak Bluffs)        | P Paul Strauss (County Comm. Rep.)    |
| P Chris Murphy (A – Chilmark)           | P Andrew Woodruff (E – West Tisbury)  |
| - Katherine Newman (A – Aquinnah)       |                                       |

Staff: Mark London (Executive Director), Bill Wilcox (Water Resources Planner), Paul Foley. Srinivas Sattoor (Traffic Planner)

### **1. GOOD COMPANY: DRI 551-M2 - DELIBERATION (CONT.)**

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*Commissioners Present: J. Best, J. Breckenridge, C. Condon, M. Davisson, C. Murphy, N. Orleans, D. Sederholm, L. Sibley, P. Strauss, A Woodruff.*

*For the Applicant: Sean Murphy, attorney; Dick Barbini, engineer.*

#### **1.1 Conditions**

##### WASTEWATER

**Mimi Davisson** spoke about the wastewater distribution to Edgartown Great Pond and proposed a zero net nitrogen impact.

- If town sewerage were implemented, the nitrogen contribution of the Field Club and subdivision would be zeroed out because of the pump station contribution.
- However, if Edgartown were to defeat the sewerage plan, the applicant would be making no mitigation for the nitrogen contribution.

**Bill Wilcox**, responding to a question from Doug Sederholm, explained that the design flow for the project is 17,995 gallons per day, totaling a nitrogen load of 75 kgs per year. The expected wastewater flow is 60% of design flow at 10,800 with a nitrogen contribution of 45 kgs per year.

**Mimi Davisson moved, and it was duly seconded, to approve the following condition:**

***In the event that the pump station option is not required and the Town elects not to tie in the neighborhoods through the pressure sewer lines installed by the Applicant as offered in the June 20, 2006, letter, the Applicant will ensure that there is no additional nitrogen loading in the Edgartown Great Pond watershed as a result of the project by offsetting their nitrogen load (approximately 87 kilograms per year [subsequently changed to: 75 kilograms per year]) with equivalent nitrogen reduction measures in the watershed [subsequently added: if a decision has not been made to sewer Island Grove before the issuance of the occupancy permit for this project]. For example this could be done by providing a sewer tie-in to 15 existing residences in the watershed, by providing on-site denitrification to existing residences in the watershed (approximately 20), or other equivalent techniques. The selected option is subject to the approval of the Land Use Planning Committee.***

- **Doug Sederholm** asked if there were any testimony regarding the cost of denitrification or tying- in additional residences. **Bill Wilcox** said that denitrification would be about \$10,000 per residence; tying-in would be somewhat less expensive.
- **Linda Sibley** and **Bill Wilcox** pointed out the sewerage mitigation measures are related to the health club wastewater plan. **Bill Wilcox** said that sewerage Island Grove, etc., would eliminate more nitrogen from Edgartown Great Pond than the development would be contributing.
- **John Breckenridge** noted that the pump station would cost the applicant about \$250,000. Equal value for tie-ins or denitrification systems would be 25 homes. He suggested that the Commission could be more aggressive in equalizing the \$250,000 contribution.
- **Doug Sederholm** said that Edgartown may take quite some time to approve the sewer but the town would likely continue to vote on the issue until the sewer were accepted. He said it might be a little overreaching to ask the applicant to spend the \$250,000 if the applicant doesn't build the pump station.
- **John Best** asked how they're going to get people to tie in.
- **Mark London** and **Mimi Davisson** pointed out that if the applicant builds the force main they'd be contributing 15% of the cost of sewerage Island Grove, about 150 houses. **Mimi Davisson** said her proposal is a fail safe; if the sewerage plan is turned down by the voters, the applicant will be making a mitigating contribution. She said that occupancy may be the key to a timeline.
- **John Breckenridge** said that the applicant has about \$450,000 in infrastructure costs. He is concerned about setting a precedent of a developer making such a big contribution and moving wastewater to a different watershed. Mimi Davisson's condition is an opportunity to allow the applicant to mitigate their contribution.
- **Linda Sibley** said the condition ensures that they would be removing as much as they would be contributing to the Edgartown Great Pond Watershed.

- **Paul Strauss** asked for clarification on who would pay for the tie-in. **Dick Barbini** said that each individual person pays for the tie-in.
- **Linda Sibley** said the savings would accrue to the town. She added that another way to look at the condition is that the people of Edgartown should know that if they vote for the sewer, they will get more bang for their buck because of this development's contribution of the pump station.
- **Mimi Davisson** said that the approximately 87 kgs should be changed to 75. The time trigger would be before the occupancy permit could be issued.
- **Dick Barbini** clarified that the applicant is willing to tie in 15 houses if Island Grove is not sewered by the time the occupancy permit is issued. **Mimi Davisson** clarified that the number of residences in the conditions should be 15, as suggested by the applicant.

***A voice vote was taken. In favor: 9. Opposed: 0. Abstentions: 1. The motion passed.***

**Doug Sederholm** asked for clarification on the condition related to zero net nitrogen. He asked whether the condition requires them to tie in 15 houses if the town doesn't approve sewerage or is the applicant to develop a denitrification solution

**Mimi Davisson** asked how the number of bedrooms was resolved. **Linda Sibley** said the number of bedrooms relates to the earlier subdivision and will be discussed another night.

**Mimi Davisson** wondered whether the 32 houses of the subdivision would go back on Title 5 systems if the health club facility isn't funded or built. **Dick Barbini** confirmed that they would.

#### ACCESS ROADS

**Mimi Davisson** raised the issue of access roads, particularly in light of growth 15 or 20 years from now. Every vehicle has to enter and exit through a major arterial road and now is a better time to plan an extra access.

***Mimi Davisson moved and it was duly seconded that the application be conditioned to require a second access road into the development.***

- **Linda Sibley** said a second access may not be within the applicant's control. They may have to negotiate this with B.A.D.D. Company.
- **John Best** said he understands the direction of the condition but he's not convinced that this is an appropriate planning move. The flow of traffic will be toward Edgartown.
- **Doug Sederholm** said the idea is laudable but he is concerned about re-engineering the project in deliberations. Significant evidence of the need for a second access was not presented during public hearing; and people didn't have the opportunity to comment on a second way. He agreed that it's a really good idea and wished the Commission had explored it.
- **Chris Murphy** said a second access is a good idea, especially in light of dealing with the main route to South Beach

- **Carlene Condon** said she agreed with Doug Sederholm on the question of whether a second access can be added without discussing it at the public hearing. She asked whether there was a right of way that can be maintained for twenty years in the future.
- **Chris Murphy** said that the abutters are all part of the original subdivision. It was pointed out that existing neighbors haven't had opportunity to comment on the idea of a second access.
- **John Best** suggesting dropping the issue.

***A voice vote was taken. In favor: 3. Opposed: 6. Abstentions: 1. The motion does not pass.***

**Mimi Davisson** asked whether the Commission could ask that a right of way be maintained.

**Mark London** said the applicant could create a dormant access. If the town created a road up to the edge, the dormant access would be awakened. The Commission has asked people to grant dormant rights of way in the past.

***Mimi Davisson moved, and it was duly seconded that a dormant vehicular access be created along Banker's Way.***

- **Linda Sibley** pointed out that if access can't be negotiated with B.A.D.D. Company, the applicant would come back.
- **Andrew Woodruff** said he felt that the second access should have been brought up during the public hearing.

***A voice vote was taken on the motion to create a dormant access. In favor: 6. Opposed: 3. Abstentions: 1. The motion passed.***

## **1.2 Benefits and Detriments**

**Linda Sibley** reviewed Section 14 of the DRI review Section 14 of Chapter 831 related to benefits and detriments. Commissioners reviewed and discussed the benefits and detriments of the project.

### **ESSENTIAL OR APPROPRIATE LOCATION**

- **Linda Sibley** said that the question is whether this is an appropriate location for this use, and whether this as an appropriate use for the location.
- **Andrew Woodruff** commented that sand pits do have value and there are few places for businesses such as landscaping. He noted that the project is reasonably well-buffered.
- **Doug Sederholm** said the development is not essential or necessarily appropriate. The property has been approved for a subdivision and he'd rather see the houses than tennis courts. He is not sure, in this case, that the benefits outweigh the detriments.
- **Carlene Condon** said she'd prefer a club to more houses and doesn't mind the loss of 7 homes.
- **Andrew Woodruff** said that the development doesn't preclude the applicant from using it is a sandpit.

#### SUPPLY OF MODERATE OR LOW INCOME HOUSING

- **Doug Sederholm** noted that if the applicant doesn't built the Field Club they wouldn't need the employee housing.
- Commissioners agreed that the affordable housing aspect of the project is neutral.

#### MUNICIPAL SERVICES

- **Doug Sederholm** said the effect is generally favorable because of their providing infrastructure for the sewer and because they are paying property taxes even though they are a non-profit.
- **John Best** said they still require municipal services such as fire and police.

#### ENVIRONMENT

- **Paul Strauss** commented that with the sewerage the development would have a favorable impact, notably on Katama Bay and the Edgartown Great Pond if the sewer system is expanded in that watershed.
- **Andrew Woodruff** said the benefit is debatable because two different watersheds are involved. If the Commission is really looking at zero net gain, it would look at nitrogen reduction systems, but it's not right to be looking at 17,999 gallons of wastewater per day being treated outside the watershed and it to be considering zero net gain. This project is using up wastewater treatment plant allocation and there are many homes in the Edgartown Great Pond Watershed that won't be treated to reduce nitrogen load in that watershed.
- **Carlene Condon** commented that the project would be an improvement over the blighted landscape that exists now.
- **John Best** pointed out that this proposal does not replace the sand pit; it replaces 7 houses.
- **Paul Strauss** said that the condition requiring net zero nitrogen growth is a benefit to the environment.
- **Linda Sibley** noted that the applicants have offered to use no pesticides, herbicides, and fungicides which is a benefit to the environment.

#### NIGHTLIGHTING AND NOISE

- **Chris Murphy** said there is going to be a considerable noise factor. However, if you take this project as a whole, the noise will be contained within the bigger project. There will be neither a positive or negative effect.
- **Linda Sibley** said if you were a neighbor there would be an impact. It's fair to note that the facility will not be open at night.

#### PERSONS AND PROPERTY

- **Mimi Davisson** commented that the original decision approving the subdivision is the key decision.
- **Carlene Condon** said the applicant has offered traffic mitigation measures, and included bus passes for employees.
- **Paul Strauss** raised the 200-person limit at the facility.

## MUNICIPAL PLAN

- Commissioners agreed that the development is neutral in terms of municipal objectives and does not contravene land development policies.

## CHARACTER AND IDENTITY

- **Linda Sibley** noted that Chapter 831 requires that Commissioners consider relevant factors which may be not readily quantifiable or tangible.
- **Ned Orleans** read a written statement. He said he has been connected to the Island for more than eighty years. He has been committed to slowing down the suburbanization of Martha's Vineyard and fighting discrimination of all types, including economic. He will "vote against this because I am firm in my conviction that it is not in the Island's interest to affirm or support economic disparity."
- **Paul Strauss** said on one level he agrees with Ned Orleans. He also had thought the Commission should deny this project because it doesn't fit our view of what the Vineyard is and what we want it to be. However, he thought that the Commission could conclude that the Island can accommodate people who want to have their own little enclave.
- **Doug Sederholm** referenced Chapter 831 that states that there is a regional and statewide interest in preserving and enhancing unique values of the Island. The purpose of the Commission is to help to preserve the unique values of the Island which contribute to enjoyment and other uses of the Island. He said he agrees that the project promotes the enhancement of sound local economies but in terms of Chapter 831 the Island is not about tennis clubs and \$80,000 memberships. The Commission has a unique charter as a governmental body to protect character.
- **John Breckenridge** said that historically, the Island has been about small town development for both Islanders and visitors. Private clubs could change the cultural traditions. However, he wasn't sure that the project could be conditioned to protect cultural values. He said the Island has changed a lot and he's not certain he can hang his hat on preserving small town character. This project has the potential to jumpstart sewerage in the watershed. It's a great proposal to help zero out the addition of nitrogen to the watershed.
- **Ned Orleans** said he has no objection to private clubs that allow public access on a continuing basis. He sees this as one in a string of things that will change the character of this island. As a Commissioner he has a picture of what the Island can be or should be. He added that the economic disparity of this project is dangerous to the Island.
- **Andrew Woodruff** thanked Ned Orleans for his honest feelings about the project. He has struggled with the same feelings. It jarred his memory of being a kid in Edgartown and feeling at times like a second-class citizen socializing with Edgartown people, especially when the summer people came. Chilmark's Community Center has always been great about getting summer and winter folks together. This project could be the beginning of more separation between Island residents and summer visitors. He wondered whether the Island can absorb this one project or is this the first of many.
- **Carlene Condon** said that the Island embraces a wide spectrum of people. Although she recognizes a growing economic disparity, she doesn't believe that the Commission can socially engineer the Island.



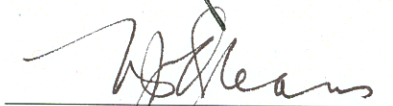
- **Mimi Davisson** said that this proposal does not represent the Island she came to. Although she doesn't like the nature of the project, she can't deny it for this reason alone and suggested that they will have to see the project play itself out. Perhaps it will end up not being economically viable.
- **John Best** said he is in agreement with Andrew Woodruff. He compared the wastewater proposal to that of the Southern Woodlands whereby its wastewater contribution was masked by its mitigations. G.O.O.D. is adding the equivalent of 30 to 50 houses worth of effluent to Edgartown Great Pond Watershed.
- **Linda Sibley** said she believes that clubs like this aren't the cause, they're the symptom. She believes in the diversity of the Island and that means accepting people who would join a club like this. She doesn't feel comfortable telling the applicant that she disapproves of the project.
- **Chris Murphy** spoke about Edgartown Wastewater Plant which was built to remove wastewater from Edgartown center which was polluting the harbor. The plant was not built with the concept of solely protecting a particular watershed.
- **Linda Sibley** said that LUPC discussed that the Commission was being asked to rule against the way the town uses the treatment plant. **Carlene Condon** commented that the use of the plant is part of on-going litigation. **Mimi Davisson** suggested the Commission look into that issue at a later date.
- **Doug Sederholm** said the project provides a reasonable balance in the use of the Wastewater Plant and protecting Katama and Edgartown Great Pond watersheds. He added that the Commission is a land use agency. This proposal takes a sand pit and turns it into tennis courts and a pool. As a land use agency, he can't deny the project because of the character issue.
- **Carlene Condon** pointed out that the staff report lists as a benefit that a new generation will be able to call this home and the project provides an economic benefit by providing jobs.

**Carlene Condon moved, and it was duly seconded, to approve the application with the conditions approved at the June 22, and June 29, 2005, meetings. A roll call vote was taken. In favor: J. Breckenridge, C. Condon, M. Davisson, C. Murphy, D. Sederholm, L. Sibley, P. Strauss. Opposed: J. Best, N. Orleans, A. Woodruff. Abstentions: None. The motion passed.**

The meeting adjourned at 10:05 p.m.

  
Chairman

3-22-07  
Date

  
Clerk-Treasurer

3-29-07  
Date